

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:)	
WARREN I. GREEN,)	CHAPTER 7
)	CASE NO. 13-10204-MSH
Debtor.)	
)	

TRUSTEE'S STATUS REPORT

The undersigned counsel for John O. Desmond, Chapter 7 Trustee (the "Trustee") of the bankruptcy estate of Warren I. Green (the "Debtor") hereby submits this status report (the "Status Report") per the Court's December 21, 2016 Order. In support thereof, the Trustee states as follows:

1. The Trustee's Complaint against the Debtor's spouse (the "Defendant") was filed on January 30, 2014 [Adv. Proc. 14-1026]. The Complaint seeks a declaration that real property located at 287 Langley Road, Unit 39, Newton, MA (the "Condominium"), held nominally in the name of the Defendant, is subject to a resulting trust in favor of the Debtor and the Defendant as tenants by the entirety, and an order authorizing the Trustee to sell the Condominium pursuant to 11 U.S.C. §363(h).

2. On February 25, 2014, the Defendant filed a motion to dismiss the adversary proceeding, alleging the existence of a "prior pending action" in the Middlesex Superior Court (the "Superior Court Action"). A hearing on the motion to dismiss was held on April 9, 2014. At such hearing, as set forth in the transcript thereof (filed April 21, 2014 as pleading no. 28), the Court ruled (page 9):

[F]irst of all, I don't want to dismiss this AP because ultimately perhaps there will be something for the Trustee to reach. But at the same time, I don't want to have you people running in two courts doing the same thing.

So what I'd like to do is just continue this motion to dismiss generally and when the state court does something, then one of you will get back to me and tell me what to do as the next thing.

3. Following the April 9, 2014 hearing, the Trustee and the Defendant proceeded in the Superior Court Action, with the Trustee being permitted to be substituted as plaintiff and to file an amended complaint.

4. The Court entered Judgment (the "Judgment") on September 7, 2016 in favor of the Trustee on the resulting trust claim.

5. Pursuant to the Judgment, the Court stated:

(1) until further court order, the property at 287 Langley Road, Unit 39, Newton, Massachusetts, is not to be sold or encumbered; (2) judgment shall enter in favor of plaintiff . . . against defendant . . . (3) that title to certain real property, known and numbered as 287 Langley Road Unit 39, Newton, Massachusetts, and more particularly described in the Condominium Deed . . . is deemed to have been held by Warren I. Green and Marsha S. Green, as tenants by the entirety, at all times since April 17, 2016, including as of January 16, 2013, the date of Warren I Green's Chapter 7 bankruptcy filing, notwithstanding the fact that the Condominium Deed . . . purports to convey said real property solely to defendant. . . .

6. On September 28, 2016, the Defendant filed a Notice of Appeal with the Superior Court.

7. On December 12, 2016, the Debtor filed a motion to Amend Schedule A, Schedule C [Docket No. 61].

8. On February 6, 2017, Kathleen P. Dwyer resigned as Trustee of the Debtor and John O. Desmond was appointed as Trustee of the Debtor.

9. On March 28, 2017, Defendant filed her appellate Brief with the Massachusetts Appeals Court.

10. On May 2, 2017, after considering oral argument from the parties and the Trustee's opposition, the Court allowed Debtor's Motion to Amend Schedule A to list the Debtor's ownership interest in the Condominium but denied Debtor's Motion to Amend Schedule C to claim a homestead exemption in the Condominium (the "Order").

11. On June 2, 2017, the Debtor filed an untimely Notice of Appeal, 30 days after the entry of the Order [Docket No. 86].

12. On June 7, 2016, the Trustee filed a Motion to Dismiss the Debtor's Appeal [Docket No. 89].

13. On June 19, 2017, the Court allowed the Trustee's Motion to Dismiss the Debtor's Appeal [Docket No. 90].

14. The Trustee's Reply Brief is currently due to be filed at the Appeals Court by June 26, 2017.

15. In light of the briefing schedule set by the Massachusetts Appeals Court, Plaintiff requests that the Court set the deadline for the filing of the next status report for approximately 180 days from the date of this Status Report.

WHEREFORE, John O. Desmond, Chapter 7 Trustee, requests that the Court accept this Status Report and order that the Trustee file the next status report 180 days from the date of this Status Report.

Respectfully submitted,

John O. Desmond, Chapter 7 Trustee

By his Attorneys,

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Dated: June 20, 2017

CERTIFICATE OF SERVICE

I, Anthony R. Leone, hereby certify that on June 20, 2017, a copy of the Trustee's Status Report was served through the Court's electronic filing system on all parties registered to receive electronic notice.

/s/ Anthony R. Leone
Anthony R. Leone